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11 | *Counsel to the Official Committee of Tort Claimants*

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION

-and-

PACIFIC GAS AND ELECTRIC COMPANY.

Debtors.

- Affects PG&E Corporation
- Affects Pacific Gas and Electric Company
- Affects both Debtors

Bankruptcy Case
No. 19-30088 (DM)

Chapter 11 (Lead Case) (Jointly Administered)

**OBJECTION OF THE OFFICIAL
COMMITTEE OF TORT CLAIMANTS
TO *EX PARTE* MOTION OF DEBTORS
TO CONTINUE HEARING ON MOTIONS
FOR RELIEF FROM THE AUTOMATIC
STAY [Dkt. Nos. 2863, 2904, 3111]**

**All papers shall be filed in the Lead Case,
No. 19-30088 (DM)*

1 The Official Committee of Tort Claimants (“TCC”) in the chapter 11 cases
2 (the “**Chapter 11 Cases**”) of PG&E Corporation and Pacific Gas and Electric Company
3 (the “**Debtors**” or “**PG&E**”) hereby submits this objection (the “**Objection**”) to the Debtors’ *ex*
4 *parte* motion [Dkt. No. 3111] to continue the hearing (“**Motion to Continue**”) on the motions of
5 the TCC and the Ad Hoc Group of Subrogation Claim Holders for relief from the automatic stay
6 (the “**Stay Motions**”) currently scheduled for July 24, 2019, and respectfully states as follows:

- 7 1. Moving parties should be entitled to control their requested hearing date, where, as here,
8 the timing of the Court’s consideration of the motions may have an impact on whether
9 or not the Court will grant the substantive relief sought.
- 10 2. In order to give the Stay Motions a fighting chance to be granted, the hearings should
11 not be delayed by almost a month. One of the Debtors’ primary arguments is that there
12 is not enough time for a state court test trial on causation of the Tubbs fire because the
13 State of California has set an arbitrary deadline for the Debtors to emerge from
14 bankruptcy. Putting aside for the moment the obvious due process problems with that
15 argument, the Debtors’ position is not factually correct. The Stay Motions provide the
16 speediest path to resolution.
- 17 3. The individual moving parties took great pains to carefully put forward plaintiffs, at
18 least one of whom indisputably will qualify for California’s 120-day trial setting
19 preference when the state court considers the trial setting application—which it will do
20 on shortened time in view of the enormous significance of the Tubbs causation issue to
21 victims and to California generally. Movants don’t intend to request multiple trials, as
22 Debtors suggest, but only one—a single test case for determination of whether the
23 Debtors’ equipment was a cause of the ignition of the Tubbs fire.
- 24 4. If the trial date is set by August 2019, trial is required by statute to start in December
25 2019. Moving parties submit that the process they request is a more speedy procedure
26 than can be accommodated by trial the United States District Court for the Northern
27 District of California, the other alternative for trial of personal injury tort and wrongful
28 death claims pursuant to 28 U.S.C. §157(b)(5). Moreover, whether the Court decides

1 to lift the stay as requested, or to withdraw the reference, the decision must be heard at
2 the earliest opportunity and no legitimate purpose is served by delay of the hearing.

3 5. Finally, Debtors' argument that the Stay Motions should be heard at the same time as
4 their motion to estimate procedures for fire claims [ECF 3091] ("Estimation Motion"),
5 set for hearing on August 14, 2019, because the two forms of relief are alternatives to
6 each other is a *red herring*. The Debtors assert in support of their dubious comparison
7 that the scope of 28 U.S.C. §157(b)(5) to the wildfire claims in these Cases is actually
8 quite small because there weren't so many wrongful deaths, and these minor details can
9 be addressed outside their master estimation procedures.

10 6. Debtors then claim that the horrific emotional distress and PTSD suffered by tens of
11 thousands of victims aren't really "personal injury torts" under 28 U.S.C. §157(b)(2)(B)
12 because the injuries are merely "incident" to the victims' loss of properties. The
13 Debtors' argument is flatly legally wrong, as will be demonstrated when the issues are
14 fully briefed in the appropriate context. (What is more troubling, though, is the fact that
15 the Debtors actually argue that a victim running for his or her life in the middle of the
16 night while seeing a towering wall of flames over their shoulder, or having to jump in a
17 swimming pool to escape the fire that is consuming their home, or hearing the screams
18 of trapped animals being burned to death, or driving with their children over downed
19 live power wires to escape their burning home, or the continuing PTSD of a child who
20 still wakes in the night with nightmares of encroaching flames, or the trauma of losing
21 their entire neighborhood or entire town—is nothing more than an asterisk incident to
22 losing their property. The fact that the Debtors directed their professionals to make this
23 legal argument is another stain on their already tarnished reputations.)

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1 Since no valid purpose will be served by granting the Motion to Continue, and the
2 substantive rights of moving parties may be prejudiced by doing so, the Motion to Continue must
3 be denied.

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5 Dated: July 20, 2019

BAKER & HOSTETLER LLP

6 By: /s/
7 Robert A. Julian

8 *Counsel for Official Committee of Tort Claimants*

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